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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,594	12/22/2000	Anthony M. Gambaro	659/620	4494

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicati n N .

09/747,594

Applicant(s)

GAMBARO ET AL.

Examin r

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears n the c ver sheet with the c rrespondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 18-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 31-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This action is in response to applicant's remark received on 10/29/04.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 39 is rejected under 35 U.S.C. 102(b) as being anticipated by Bush, Jr. et al (3,908,495).

Bush discloses the method of cutting a plurality of substrates comprising the step of: placing a log of substrate on a conveyor, the log having a length and a width (Fig. 2); advancing the conveyor; discharging the log from the conveyor onto a transfer plate (Fig. 7); placing the log into a pocket on a cutting support (Fig. 1); rotating the pocket containing the log toward a plurality of circular cutting blades; rotating the pocket containing the log through the circular cutting blades; rotating the pocket containing the log away from the circular cutting blades; and discharging the rolls from the pocket; and the pocket supports the log along the entire length (Fig. 1).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perini (4,329,895) in view of Rood (3,764,717) and Win et al. (5,667,635).

Perini discloses the method of cutting a plurality of moist substrates comprising the step of: placing the log from a transfer plate 1 into a pocket on a cutting support (Fig. 2); advancing the pocket containing the log toward a plurality of cutting blades (Fig. 1 and 3); advancing the pocket containing the rolls away from the cutting blades (Fig. 3); metering the rate at the log is discharged; discharging the rolls from the pocket. Perini doesn't show the method of placing a log of moist substrate on a conveyor with moisture content of at least about 50% or 65%, advancing the conveyor, and discharging the log from the conveyor onto the transfer plate. However, Rood teaches the method of placing a log on a conveyor (Fig. 1), advancing the conveyor, and discharging the log from the conveyor onto a transfer plate 20 for the purpose of orienting the product which does not require human assistance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Perini's device by providing the method of placing a log on a conveyor, advancing the conveyor, and discharging the log from the conveyor onto a transfer plate as taught by Rood in order to obtain a device that orient the product which does not require human assistance.

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Regarding the web with moisture content of at least about 50% and 65%, Examiner takes Official Notice that such “wet wipes” are well known. An example of such is shown by Win, who teaches the use of a web with moisture content of at least about 50% and 65% (see col. 1, line 67) for the purpose of possessing adequate dispersibility in order to safely disposed of by flushing down the toilet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Perini’s modified device to cut a web with moisture content of at least about 50% and 65% as is well known and taught by Win in order to cut Win’s wipes into a saleable size.

Regarding claims 2-3, 5, 11 and 12, the modified invention of Perini discloses the invention substantially as claimed except for a log of at least 2540 mm long and a diameter from 50 mm to 250mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Perini’s device by changing its size, since the courts have long held that this limitation is not patentably significant since it at most relates to the size of the article under consideration which is not ordinary as matter of invention. In re Yount, 36C.C.P.A. Likewise, for claims such as 6 and 9, the feed rate and percentage of log cut are non inventive decisions made by artisans of average skill, and it would have been obvious to said average artisan to have processed 300 roll per minute and produce 95% usable rolls.

6. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perini (4, 329, 895) in view of Rood.

Perini discloses the method of cutting a plurality of moist substrates comprising the step of: placing the log from a transfer plate 1 into a pocket on a cutting support (Fig. 2); advancing

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the pocket containing the log toward a plurality of cutting blades (Fig. 1 and 3); advancing the pocket containing the rolls away from the cutting blades (Fig. 3); metering the rate at the log is discharged; discharging the rolls from the pocket; and honing the cutting blades (col. 3, line 33-36). Perini doesn't show the method of advancing the conveyor, and discharging the log from the conveyor onto the transfer plate. However, Rood teaches the method of placing a log on a conveyor (Fig. 1), advancing the conveyor and discharging the log from the conveyor onto a transfer plate 20 for the purpose of orienting the product which does not require human assistance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Perini's device by providing the method of placing a log on a conveyor, advancing the conveyor, and discharging the log from the conveyor onto a transfer plate as taught by Rood in order to obtain a device that orient the product which does not require human assistance.

Regarding claims 32-33, the modified invention of Perini discloses the invention substantially as claimed except for a log of at least 2540 mm long and a diameter from 50 mm to 250mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Perini's device changing its size, since the courts have long held that this limitation is patentably significant since it at most relates to the size of the article under consideration which is not ordinary as matter of invention. In re Yount, 36C.C.P.A.

7. Claims 1-17 and 31-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Renard (3,213,731) in view of Bush et al. (3,908,495) and Win et al. (5,667,635).

Renard discloses the method of cutting a plurality of moist substrates comprising the step of: moving the cutting blade to a position away from the pocket (Fig. 8); and honing the cutting blades (Fig. 8 and 10). Renard doesn't show the method of placing a log of moist substrate on a conveyor with moisture content of at least about 50% or 65%, advancing the conveyor, discharging the log from the conveyor onto the transfer plate, metering the rate at the log is discharged; and discharging the rolls from the pocket. However, Bush teaches the method of advancing the conveyor, discharging the log from the conveyor onto the transfer plate (Fig. &), metering the rate at the log is discharged (col. 12, line 39-43); and discharging the rolls from the pocket (Fig. 1) for the purpose of automatically feeding the work past a series of operable cutting means and reducing operating cost. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Renard's device by providing the method of: advancing the conveyor, discharging the log from the conveyor onto the transfer plate, metering the rate at the log is discharged; and discharging the rolls from the pocket as taught by Bush in order to obtain a device that automatically feed the work past a series of operable cutting means and reduce operating cost.

Regarding the web with moisture content of at least about 50% and 65%, Examiner takes Official Notice that such "wet wipes" are well known. An example of such is shown by Win, who teaches the use of a web with moisture content of at least about 50% and 65% (see col. 1, line 67) for the for the purpose of possessing adequate dispersibility in order to safely disposed of by flushing down the toilet. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Renard's modified device to cut a web with

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moisture content of at least about 50% and 65% as is well known and taught by Win in order to cut Win's wipes into a saleable size.

Regarding claims 2-3, 5, 11-12, 15-16, 32-33, 36 and 37 the modified invention of Renard discloses the invention substantially as claimed except for a log of at least 2540 mm long and a diameter from 50 mm to 250mm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Renard's device by changing its size, since the courts have long held that this limitation is not patentably significant since it at most relates to the size of the article under consideration which is not ordinary as matter of invention. In re Yount, 36C.C.P.A. Likewise, for claims such as 6 and 9, the feed rate and percentage of log cut are non inventive decisions made by artisans of average skill, and it would have been obvious to said average artisan to have processed 300 roll per minute and produce 95% usable rolls.

### ***Response to Arguments***

8. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that Bush does not show the pocket supporting the log along the entire length because there is substantial spacing between theses narrow arms 37. However, Bush teaches the pocket supporting the log along the entire length. Regarding the space between the arms, the applicant invention shows a similar space 32 (Fig. 14) indicating the pocket is not supporting along the entire length, and applicant admits in the remarks, page 3 lines 2-3, that the log is not supported entirely because of the clearance that is provided for the cutting blades. In response to



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applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a pocket with channels) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Also, Applicant argues that Perini does not teach a flexible log. However, Perini teaches the flexible log that is flexible in comparison with wood log. Also, claims do not show structural limitation that set the boundary of the word flexible.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507.

The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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January 23, 2005

  
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Group 3700